701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2696
Telephone 202-508-5615
Fax 202-508-5673

www.eei.org

EDISON ELECTRIC INSTITUTE

EDWARD H. COMER
Vice President & General Counsel

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Mr. Blaine D. Stockton
Assistant Administrator, Electric Program
U. S. Department of Agriculture
Rural Utilities Service
Room 5156 South Building (Stop 1560)
1400 Independence Avenue, SW
Washington, D.C. 20250-1560

Dear Mr. Stockton:

The Edison Electric Institute, representing America's shareholder owned electric utilities, appreciates this opportunity to comment on the RUS proposed rule published in the Federal Register on December 30, 2003, entitled "Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes." We have several major concerns with these proposed regulations.

First, RUS is providing nearly $5 *billion* annually at or below Treasury interest rates to its electric and telephone borrowers. In addition, the private lenders eligible for U.S. Treasury loans under the proposed regulations, CoBank and the National Rural Utilities Cooperative Finance Corporation (CFC), supplement RUS lending with *billions* more via private credit markets. Both of these PRIVATE lenders have "A" rated or better debt ratings and have no difficulty borrowing in private markets. There is no capital shortfall that the combination of these lenders is not meeting and there is no need or justification for the proposed program. For this simple but important reason we believe this program should not be implemented.

Second, the program sets a new and dangerous precedent. One of the eligible borrowers, the CFC, is a 35-year old *unregulated PRIVATE lender*. This lender will, in effect, become a government-sponsored enterprise (GSE). To our knowledge the federal government has never made Treasury loans or guarantees to an *unregulated PRIVATE lender.*

Taxpayers must be protected from suffering potentially huge losses as a result of the credit risks associated with such loans. If this program goes forward, once CFC gets its first guarantee, its private sector debt rating will likely jump to "AA" or even "AAA" not because CFC is better managed or more credit worthy but simply because of its Treasury backing. The CFC's management will then be isolated from the discipline of credit markets, setting the stage for poorer management practices and future losses.

Neither these regulations nor the program they launch are necessary or wise. If it goes forward, America's taxpayers must not be forced to shoulder unacceptable risks. Roughly one-fifth of all

RUS power supply borrowers have (1) had their loans written down by RUS, (2) defaulted on their RUS loans or loan guarantees or (3) filed for bankruptcy. The preamble to the proposed regulations significantly understates the costs of these write downs as $4.9 *billion*. Instead, as the attached chart indicates, over $13 *billion* in accrued interest and principal has been lost. A number of these borrowers also had CFC loans. Losses of any amount, let alone even the $4.9 billion reported by RUS, are simply unacceptable to America's taxpayers. Any new loan program guaranteeing loans by a private lender needs far better controls.

If, nonetheless, this program goes forward, we believe the following limitations and controls are necessary to reduce significantly the likelihood of more such losses.

1. No loan or guarantee of CFC obligations should be issued unless and until CFC conforms its own lending practices to the original RUS eligibility criteria regarding need.

2. A new provision should be added to require that each loan or guarantee be collateralized with investment grade borrower first mortgages with balances at least equal to the amount of the loan or guarantee.

3. The full requirements of the Federal Institutions Reforms, Recovery and Enforcement Act should apply to every private lender receiving a federal loan guarantee. Thus, the CFC should be subject to annual examinations by the Office of Thrift Supervision or the Controller of Currency, which should be funded by the CFC, and RUS should enter into a Memorandum of Understanding with such offices to facilitate these audits. The results of these audits should be made public to assure taxpayers of the soundness of the guarantee program. In addition, since credit rating agencies will certainly give an investment grade rating to any loan receiving the full faith and credit guarantee of the U.S. government, the RUS must <u>not</u> rely upon such ratings as proof of creditworthiness of a loan.

4. The five percent limitation on patronage capital should be reduced to two percent. This is necessary to ensure that proceeds are used to fund underlying investments, rather than return "dividends" to co-op members.

5. The final maturity of the loans or guarantees should not exceed five years.

6. The provision establishing the "bankruptcy remote trust fund" should be retained but the limit should be raised to at least seven percent.

In sum, we urge that the program not be implemented or, at minimum, that the limitations we suggest be implemented to reduce the risk of further taxpayer losses and adverse impacts on competitive markets.

Sincerely,

Edward Comer

Edward H. Comer

Attachment

EHC/pf

Estimated Rural Utility Service (RUS) Loan Losses on Power Supply Loans, Loan Guarantees[1, 2]

	Borrower/State	Event	Type Generation	Est. Losses (Bil 00$)
1.	Soyland Power Coop, Illinois	Bankruptcy	Nuclear	$1.2
2.	Deseret G&T Coop, Utah	Default	Coal	1.1
3.	Wolverine Electric Power Coop, Michigan	Default	Nuclear	0.2
4.	Wabash Valley Power Assoc, Indiana	Bankruptcy	Nuclear	1.3
5.	Cajun Electric Power Coop, Louisiana	Default/Bankruptcy	Nuclear/Coal	5.6
6.	Big Rivers Electric Coop, Kentucky	Default/Bankruptcy	Coal	0.4
7.	Vermont Electric G&T, Vermont New Hampshire Electric Co-op, New Hampshire	Default/Bankruptcy	Nuclear	0.1
8.	New Hampshire Electric Co-op, New Hampshire	Default/Bankruptcy	Nuclear	0.1
9.	Sunflower Electric Coop, Kansas	Default/Restructured	Coal	0.4
10.	Allegheny Electric Coop, PA	RUS writedown	Nuclear	0.1
11.	Saluda River Electric Coop, South Carolina	RUS writedown	Nuclear	0.2
12.	Colorado Ute, Colorado	Bankruptcy	Coal	-
13.	Plains G&T, New Mexico	Merger with Tri-State G&T Assoc, Colorado	Coal	5
14.	Western Illinois Power Coop, Illinois	Default/Merger	Nuclear	3
	RUS reserve for future losses[4]			2.4
		Total		$13.3

[1]. The above information was compiled from RUS, Statistical Reports Rural Electric Borrowers, Federal Court Bankruptcy documents, RUS letters and testimony to Congress, GAO reports and from discussions with RUS personnel.

[2]. There are approximately 60 power supply cooperatives. Of these, 14 have defaulted, filed for bankruptcy merged or requested and got loan writedowns from RUS. Also, additional borrowers have either requested loan writedowns or are financially distressed. Loss estimates include loan principal, accrued interest during bankruptcy, refinancing resulting in reduced present value of loans and tax revenue losses from leverage lease buyouts. The estimates were done on a cash flow basis except where noted. This is consistent with budget scoring rules that existed when these loans were made in the 1980s.

[3]. Losses for this borrower are included with Soyland above since they merged in 1986

[4] RUS reserve for future losses is calculated as the present value of estimated future losses. The amount reported by RUS of $2,444 has been reduced by $94 million for distribution co-op loan losses.

[5]. RUS merged Plains G&T with Tri-State G&T Assoc. A subsidy was involved but estimates cannot be made because RUS has not reported the specifics of the transactions.